

SBA Loans for OSHA Compliance



Programs and Policy Series

U.S. Department of Labor
Occupational Safety and
Health Administration
January 1975

OSHA 2005

About This Booklet

This publication provides basic information to the small business employer on how to apply for a loan from the Small Business Administration (SBA) for the purpose of complying with OSHA safety and health rules and regulations. Addresses of the regional offices for both OSHA and SBA are included.

SBA Loans for OSHA Compliance

Programs and Policy Series

U.S. Department of Labor
Occupational Safety and
Health Administration
January 1975

OSHA 2005





Background

The Occupational Safety and Health Act of 1970 affects small businesses as well as large. The Act can make it necessary for small businesses to add to or alter their equipment, facilities or methods of operation in order to come into compliance with the Act's standards. However, the Act is not intended to cause economic harm to small businesses in such situations. To meet just such a problem, Section 28 of the Occupational Safety and Health Act amends the Small Business Act. The amendment authorizes the Small Business Administration (SBA) to make loans to assist small businesses to meet the standards under Section 6 of the Occupational Safety and Health Act or under State laws. Such help is made available if SBA determines that the concern is likely to suffer substantial economic injury without assistance. OSHA has worked out arrangements with SBA to aid in the making of such loans in appropriate cases.

Who Is Eligible

The Occupational Safety and Health Act says any small business that "is likely to suffer substantial economic injury" without such assistance as it seeks to come into compliance can be eligible for an SBA loan. SBA has defined a "small" business in standards that are available at any SBA field office. In essence, the applicant must be an independently owned or operated small business not dominant in its field, and must meet employment or sales size standards established by SBA.

How the Loans May Be Used

1. An employer may use the proceeds to construct a new building, even in a new location, to replace an old building where remodeling is not feasible or to replace rented quarters when needed upgrading arrangements cannot be arranged. Any upgrading in size or quality may not exceed corresponding criteria under the SBA's Displaced Business Loan (DBL) program.
2. Bank loans may be refunded when the terms of such loans (intended for permanent financing) prove too burdensome for the borrower and the bank itself requests refunding because it realizes a longer term will benefit the borrower. The loan may not be used to effect a take-out from a possible loss. Bank loans also may be refunded when they were rushed through for short term improvements to meet compliance requirements.
3. Working capital may be provided to replace working capital

expended for compliance (such as meeting construction time limits). It also may be used, when construction is involved and operations are curtailed, to meet continuing fixed costs such as payment on equipment notes and mortgages to help finance startup costs, and to finance operating changes required to come into compliance.

4. Tenants may obtain loans to finance the purchase of equipment or upgrade the plant.

When To Apply

An employer can make application under one of two procedures:

- (1) before he has been inspected, in order to come into compliance, or
- (2) after he has been inspected, to correct alleged violations.

Before Inspection

When an employer has not been inspected by OSHA and requests a loan to bring his establishment into compliance before he is inspected, he must submit to SBA:

- a statement of the conditions to be corrected;
- a reference to the OSHA standards that require correction;
- a statement of his financial condition that necessitates applying for a loan.

Specifically, the employer should do the following:

1. He should obtain from a licensed professional engineer and/or architect a report on the work to be done. This report should cite existing conditions, the standards that require the work, and plans and specifications of sufficient clarity to permit OSHA to determine that the work will bring the establishment into compliance.

2. He should submit to SBA a copy of this report, along with any background material.

The SBA will then refer the application to the appropriate OSHA Regional Office, Office of Technical Support.

The OSHA Regional Office will review the application and advise SBA whether the employer is required to correct the described conditions in order to come into compliance, and whether his proposed use of funds will accomplish needed corrections.

Direct contact with the applicant will be initiated by OSHA only after clearance with SBA, and will not be conducted at the applicant's establishment.

The appropriate SBA field office will review the applicant's financial statements and determine his ability to meet repayment terms, and will then process the application to a conclusion.

After Inspection

The procedure is the same as before inspection, except that the applicant also must furnish SBA a copy of the OSHA citation(s). SBA then refers the application to the OSHA Area Office that performed the inspection. That office will notify SBA whether the proposed use of loan funds will adequately correct cited violations.

Submission of a loan application in no way affects the abatement period prescribed for the cited violations. However, OSHA will give consideration to a request for extension of the abatement period to permit the employer to plan and finance work to correct violations, in accordance with normal procedures for dealing with such requests.

When OSHA has cited an establishment for alleged violations and the employer contests the citation, neither OSHA nor SBA will take any action until the contest process has been completed and the Occupational Safety and Health Review Commission has issued a final order.

Where To Get the Loan

The SBA will make loans in cooperation with banks or other lending institutions or on a direct basis.

What Collateral Is Necessary

The applicant must be in sound financial condition and there must be reasonable assurance the loan will be repaid. The applicant must pledge whatever collateral, or give such guarantees, as he can. When the SBA loan is used to acquire fixed assets, these must be pledged as security. Personal and/or business assets should be used to the greatest extent possible, but it is not expected that they will be needed to the point of curtailing working capital or reserve requirements.

Loan Maturity

Loan maturity is based on the applicant's need and earnings, but repayment must be made at the earliest possible date. The maximum term is 30 years.

Interest and Fees

Within certain limitations, the private lender sets the interest rate on guaranteed loans and on its portion of immediate participation loans.

Interest rates on SBA's portion of immediate participation, as well as direct loans, may be obtained from any SBA office, since the rate is subject to change, depending on the average annual interest rate on all interest-bearing obligations of the United States.

Application Forms

Forms for loan applications can be obtained from any SBA field office. In some instances, private lending institutions will be able to provide the forms for SBA/bank participation loans.

Time of Filing

An application can be filed with SBA as soon as the amount of the required upgrading and the cost have been determined—by the employer if he has not been inspected, and by the employer with OSHA endorsement if he has been inspected and is not contesting a citation. If he is contesting a citation, no application can be filed until the contest process has been completed.

Small Business Administration

Regional Offices

Region I

150 Causeway Street, 10th Floor
Boston, MA 02114
Telephone: (617) 223-2100

Region II

26 Federal Plaza, 32nd Floor
New York, NY 10007
Telephone: (212) 460-0100

Region III

1 Decker Square
East Lobby, Suite 400
Bala Cynwyd, PA 19004
Telephone: (215) 597-3311

Region IV

1401 Peachtree Street, NE
Room 441
Atlanta, GA 30309
Telephone: (404) 526-0111

Region V

Federal Bldg., Room 437
219 South Dearborn Street
Chicago, IL 60604
Telephone: (312) 353-4579

Region VI

1720 Regal Row
Regal Park Office Bldg.
Dallas, TX 75235
Telephone: (214) 748-5611

Region VII

911 Walnut Street, 24th Floor
Kansas City, MO 64106
Telephone: (816) 374-7000

Region VIII

721 19th Street, Room 426A
Denver, CO 80202
Telephone: (303) 837-0111

Region IX

Federal Bldg.
450 Golden Gate Avenue
San Francisco, CA 94102
Telephone: (415) 556-9000

Region X

710 2nd Avenue, 5th Floor
Dexter Horton Bldg.
Seattle, WA 98104
Telephone: (206) 442-011

U.S. Department of Labor

Regional Offices for Occupational Safety and Health

Region I (CT, ME, MA, NH, RI, VT)

18 Oliver Street
Boston, MA 02110
Telephone: (617) 223-6712

Region II (NY, NJ, PR, VI, CZ)

Room 3445, 1 Astor Plaza
1515 Broadway
New York, NY 10036
Telephone: (212) 971-5941

Region III (DE, DC, MD, PA, VA, WV)

15220 Gateway Center
3535 Market Street
Philadelphia, PA 19104
Telephone: (215) 597-1201

Region IV

(AL, FL, GA, KY, MS, NC, SC, TN)

1375 Peachtree Street, NE
Suite 587
Atlanta, GA 30309
Telephone: (404) 526-3573

Region V (IL, IN, MN, MI, OH, WI)

230 South Dearborn Street
32nd Floor
Chicago, IL 60604
Telephone: (312) 353-4716

Region VI (AR, LA, NM, OK, TX)

Texaco Bldg.—7th Floor
1512 Commerce Street
Dallas, TX 75201
Telephone: (214) 749-2477

Region VII (IA, KS, MO, NE)

911 Walnut Street, Room 3000
Kansas City, MO 64106
Telephone: (816) 374-5861

Region VIII

(CO, MT, ND, SD, UT, WY)

Room 15010, Federal Bldg.
1961 Stout Street
Denver, CO 80202
Telephone: (303) 837-3883

Region IX (CA, AZ, NV, HI)

Box 36017
450 Golden Gate Avenue
San Francisco, CA 94102
Telephone: (415) 556-0586

Region X (AK, ID, OR, WA)

Smith Tower Bldg., Room 1808
506 Second Avenue
Seattle, WA 98104
Telephone: (206) 442-5930

